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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,952	01/02/2008	Takuji Kataoka	46884-5517 (232124)	6694
55694 7590 09/28/2010 DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209				
EXAMINER				
HANDY, DWAYNE K				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
09/28/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DBRIPDocket@dbi.com

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# Office Action Summary

**Application No.**

10/594,952

**Applicant(s)**

KATAOKA, TAKUJI

**Examiner**

DWAYNE K. HANDY

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SI/300)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date 09/29/06; 04/01/08

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cottingham (5,795,748). Cottingham teaches an apparatus for carrying out nucleic acid amplification. The device is best shown Figures 1-5B and described in columns 4-6. The device includes a plurality of light shielding parts (caps -18) with liquid permeability located over a plurality of containers (wells – 14). The light shielding parts include an outer frame structure (rim – 38), and are connected by a supporting structure (tabs – 25). The containers include positioning means (ribs – 26) on the inside walls.
4. Claims 1, 2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Root et al. (4,895,706). Root teaches a multiwell filter strip apparatus. The device is best shown in Figures 1-8 and described in columns 4-6. The device includes a plurality of light shielding parts (top wells - 20) with liquid permeability located over a

plurality of containers (bottom wells - 70). The light shielding parts include an outer frame structure (main rib - 40), and are connected by a supporting structure (cross rib - 42).

5. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Krahn et al. (2002/022274). Krahn teaches a device and method for masking background fluorescence in optical analysis. The method may include use of a separating layer (10) that also acts as a masking member to enhance the sensitivity and accuracy of the detection (Abstract). The method in general is described in general in Paragraphs [0030 - [0031] and the claims. The method includes the steps of providing the container (1) with sample, adding the dye and reagent members, sandwiching the measured object(s) between the masking member and vessel bottom, and then measuring fluorescence (7). The embodiment of Krahn most relevant to the instant claims - having the permeable masking member (10) - is shown in Figures 6 and 7 and described in Paragraphs [0039] - [0042].

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE K. HANDY whose telephone number is (571)272-1259. The examiner can normally be reached on M-F 11:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne K Handy/  
Examiner, Art Unit 1797

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797

September 10, 2010